

Federal Motor Carrier Safety Administration, DOT

§ 389.9

amendment and revocation of rules under an Act.

[62 FR 37152, July 11, 1997]

§ 389.3 Definitions.

Act means statutes granting the Secretary authority to regulate motor carrier safety.

Administrator means the Federal Motor Carrier Safety Administrator.

Confidential business information means trade secrets or commercial or financial information that is privileged or confidential, as described in 5 U.S.C. 552(b)(4). Commercial or financial information is considered confidential if it was voluntarily submitted and is the type of information that is customarily not released to the general public by the person or entity from whom it was obtained.

[62 FR 37152, July 11, 1997, as amended at 80 FR 32864, June 10, 2015]

§ 389.5 Regulatory docket.

(a) Information and data deemed relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rule making proceedings under § 389.25; and final rules are maintained at headquarters, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590-0001.

(b) Except for material ordered withheld from the public under section 552(b) of title 5 of the United States Code, any person may examine docketed material in the Department of Transportation Docket Management Facility in the following ways:

(1) At headquarters at any time during regular business hours. Copies may be obtained upon payment of a fee.

(2) On the Web site *regulations.gov*, at any time, by using the uniform resources locator (URL) *http://www.regulations.gov*. Copies may be downloaded or printed.

[72 FR 55702, Oct. 1, 2007]

§ 389.7 Records.

Records of the Administrator relating to rule making proceedings are

available for inspection as provided in section 552(b) of title 5 of the United States Code and part 7 of the regulations of the Secretary of Transportation (part 7 of this title; 32 FR 9284 *et seq.*).

[35 FR 9209, June 12, 1970, as amended at 53 FR 2036, Jan. 26, 1988]

§ 389.9 Treatment of confidential business information.

(a) *Purpose.* This section establishes the standards and procedures by which the Agency will solicit and receive certain confidential commercial or financial information, as that term is used in the Freedom of Information Act (5 U.S.C. 552(b)(4)), categorically referred to below as “confidential business information,” and the manner in which the Agency will protect such information from public disclosure in accordance with 5 U.S.C. 552(b)(4).

(b) *Confidential class determinations.* The Administrator may make and issue a class determination, which shall pertain to a specified rulemaking and shall clearly identify categories of information included within the class. Information submitted under the class determination and conforming to the characteristics of the class will be treated as presumptively confidential and accorded the non-disclosure protections described in paragraph (h) of this section. The Administrator may establish a class upon finding that:

(1) FMCSA seeks to obtain related items of commercial or financial information as described in 5 U.S.C. 552(b)(4);

(2) The class determination would facilitate the voluntary submission of information necessary to inform the rulemaking; and

(3) One or more characteristics common to each item of information in the class will necessarily result in identical treatment, and that it is therefore appropriate to treat all such items as a class under this section.

(c) *Frequency and content of class determinations.* Class determinations may be defined by the Administrator on an as needed basis and shall include substantive criteria established in accordance with the informational needs of the particular rulemaking.